

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Criminal No. 07-439(8) (JNE / SRN)

Plaintiff,

REPORT & RECOMMENDATION

v.

Tobias Tydes Davenport,

Defendant.

Leshia Lee-Dixon, Assistant U.S. Attorney, 600 U.S. Courthouse, 300 South Fourth Street, Minneapolis, MN 55415, for U.S.A.

Steven Wolter, Kelley & Wolter, P.A., Centre Village Offices, Suite 2530, 431 South Seventh Street, Minneapolis, MN 55415, for Defendant.

SUSAN RICHARD NELSON, United States Magistrate Judge

This matter comes before the undersigned United States Magistrate Judge on Defendant's Motion to Suppress Statements, Admissions, and Answers (Doc. No. 569). The matter has been referred to the undersigned for a Report and Recommendation pursuant to 28 U.S.C. § 636 and District of Minnesota Local Rule 72.1(a). For the reasons stated below, this Court recommends that the motion be denied as moot.

I. FACTUAL AND PROCEDURAL BACKGROUND

Defendant has been indicted for conspiracy to distribute and possess with intent to distribute cocaine and cocaine base and on several counts of distribution of cocaine base. (Doc. No. 1.) He now presents a single dispositive as well as numerous non-dispositive motions.¹

II. DISCUSSION

Defendant filed a motion seeking to suppress any and all statements, admissions and

¹ The Court will address Defendant's non-dispositive motions in a separate Order.

answers he made prior to, at the time of, or after his arrest. (Doc. No. 569.) The Government submitted “that at this time there were no statements made by defendant” but that should any come to its attention, it would immediately notify Defendant “so that proper review of those statements can occur.” (Doc. No. 571.) Accordingly, the motion is presently moot.

III. RECOMMENDATION

Based on the foregoing, and all the files, records and proceedings herein, IT IS HEREBY RECOMMENDED that:

1. Defendant’s motion to suppress (Doc. No. 569) be DENIED AS MOOT.

Dated: July 14, 2008

s/ Susan Richard Nelson

SUSAN RICHARD NELSON
United States Magistrate Judge

Under D. Minn. LR 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court and serving all parties by July 29, 2008, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party’s right to seek review in the Court of Appeals. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable to the Court of Appeals.